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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,427	01/22/2004	Shigeo Hayashi	50395-248	1418

7590 05/22/2006
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

NGUYEN, DUNG T

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/761,427	Applicant(s) HAYASHI, SHIGEO	
	Examiner Dung (Michael) T. Nguyen	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-13 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong (4730112).

With respect to claim 1, Wong shows in Fig. 14 an optical assembly comprising:

a laser diode (16) for emitting light within a predetermined wavelength range at a temperature (it is inherent that a diode laser emits a light with a wavelength at a certain temperature) by providing a driving signal (from diode driver (68)) thereto;

a temperature sensor (thermistor (92), col.11, lines 39-41) for sensing said temperature of said laser diode (16);

a heater (96) for simulating a self-heating of said laser diode (16) (col.11, lines 35-39) by providing a supply current (from cooler driver (122), col.11, lines 45-51) before said driving signal is provided to said laser diode (16) (see col.11, lines 33-57);

and a thermoelectric cooler (98) for controlling said temperature of said laser diode (16) (col.11, lines 33-57), said thermoelectric cooler (98) mounting said laser diode (16), said temperature sensor (92) and said heater (96) thereon.

With respect to claim 2, it is inherent that said thermoelectric cooler is also a Peltier element as evidenced by (Mazed in (US2004/0004980) (paragraph 0010, lines 5-6)).

Response to Arguments

Applicant's arguments filed on 02/28/06 have been fully considered but they are not persuasive.

On page 13, first paragraph of the remarks, Applicant argues that “the heater is configured for providing a supply current to the laser diode for simulating a self-heating of the laser diode. The claimed heater is not configured for providing heat to the laser diode”. The argument is not persuasive and seems irrelevant because it is not clear as how a heater could provide a supply current to the laser diode (only the current driver can supply a current to the laser diode) and by definition the heater is used to provide only heat. Therefore, the Wong reference is still read on the limitations of claim 1. Additionally, paragraph 0028 in the instant application also discloses that the heater heats the laser diode.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Allowable Subject Matter

Claims 5-13 are allowed.

The following is an examiner's statement of reasons for allowance:

Claims 5 and 11-13 are allowed over The Wong prior art fails to teach or disclose the limitations of a first switch connected to said heater, said switch having a normally close configuration and turning off by receiving said switching signal from said window comparator, thereby shutting off said supply current to said heater.

Claims 6-10 are found allowable due to their dependency of allowed claim 5.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (571) 272-1949. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Min Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Michael Dung Nguyen

Amanda D
for
MinSun Harvey